

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Respondent,

No. CR-S-05-125 MCE GGH

vs.

ANDREW BEDENFIELD,

Movant.

ORDER

Movant, has filed an amended motion pursuant to 28 U.S.C. § 2255. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On March 3, 2010, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within twenty-one days. Movant has filed objections to the findings and recommendations.

In his objections, movant alleges that the magistrate judge did not address ground one of his motion which is contained in memorandum B of his motion. Movant alleges that ground one concerns his appeal.

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1 Memorandum B of the motion is a copy of movant's opening brief filed in the
2 Ninth Circuit Court of Appeals. A § 2255 proceeding may not be used to relitigate issues which
3 have already been raised on direct appeal. Battaglia v. United States, 428 F.2d 957 (9th Cir.
4 1979). Because it appears that claim one of the pending motion raises the same issues as were
5 raised on appeal, this claim is denied.

6 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule
7 304, this court has conducted a de novo review of this case. Having carefully reviewed the entire
8 file, the court finds the findings and recommendations to be supported by the record and by
9 proper analysis.

10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. The findings and recommendations filed March 3, 2010, are adopted in full;
- 12 2. Movant's request for credits pursuant to 18 U.S.C. § 3585(b) contained in his
13 motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255 is denied for
14 lack of jurisdiction;
- 15 3. For the reasons discussed above, claim one is denied; and
- 16 4. The Clerk of the Court is directed to close the companion civil cases, 09-3280
17 and 09-3406.

18 Dated: March 26, 2010

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20 MORRISON C. ENGLAND, JR.
21 UNITED STATES DISTRICT JUDGE
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